

## AMENDMENT OF SECTIONS 1606 AND 1607 OF THE INTERNAL REVENUE CODE

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JULY 3, 1952.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. KEOGH, from the Committee on Ways and Means, submitted the  
following

### REPORT

[To accompany H. J. Res. 457]

The Committee on Ways and Means, to whom was referred the joint resolution (H. J. Res. 457) to amend sections 1606 and 1607 of the Internal Revenue Code, as amended, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the joint resolution, as amended, do pass.

The amendment strikes out all after the enacting clause and inserts a substitute which appears in the reported bill in italic type.

The purpose of this resolution is to provide unemployment insurance coverage to seamen employed on vessels operated for the account of the United States. This vessel-operation program, instituted on March 13, 1951, is carried on by a National Shipping Authority in the Maritime Administration established by the Secretary of Commerce to carry on the functions of transporting cargoes essential to Government military and other defense-related programs.

The seamen employed on vessels operated in this program are employees of the United States. The vessels in this program are Government-owned vessels from the national defense reserve fleet. Seamen may shift their employment from privately owned and operated vessels to Government owned and operated vessels in the interest of Government needs. Under the administrative policy of the Maritime Administration, Department of Commerce, and pursuant to the provisions of Public Law 17 of the Seventy-eighth Congress, and Public Law 45 of the Eighty-second Congress, these seamen are accorded, with a few exceptions, the same rights they would have if privately employed. One of the exceptions is unemployment insurance coverage, which this resolution is designed to provide.

This resolution provides for Federal consent for coverage of these employees by the States. Federal consent is necessary because the

seamen are employees of the United States. The necessary consent is provided through appropriate amendments to the Internal Revenue Code.

Since the first of the year, approximately 360 vessels of the 538 operated in this program have been laid up resulting in the unemployment of a large number of the seamen formerly employed on those ships. Thus, there is a real and immediate need for the legislation.

Representatives of the industry, of maritime labor, of the various Federal agencies interested in the problem, and representatives of the maritime States whose laws provide unemployment insurance coverage for privately employed seamen, have participated in drafting this measure. The committee amendment is clarifying and perfecting in nature and has the approval of the agencies concerned with the administration of the law.

### CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the joint resolution, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

### INTERNAL REVENUE CODE

#### SEC. 1606. INTERSTATE COMMERCE AND FEDERAL INSTRUMENTALITIES.

(a) No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate or foreign commerce, or that the State law does not distinguish between employees engaged in interstate or foreign commerce and those engaged in intrastate commerce.

(b) The legislature of any State may require any instrumentality of the United States (except such as are (A) wholly owned by the United States, or (B) exempt from the tax imposed by section 1600 by virtue of any other provisions of law), and the individuals in its employ, to make contributions to an unemployment fund under a State unemployment compensation law approved by the Board under section 1603 and (except as provided in section 5240 of the Revised Statutes, as amended, and as modified by subsection (c) of this section) to comply otherwise with such law. The permission granted in this subsection shall apply (1) only to the extent that no discrimination is made against such instrumentality, so that if the rate of contribution is uniform upon all other persons subject to such law on account of having individuals in their employ, and upon all employees of such persons, respectively, the contributions required of such instrumentality or the individuals in its employ shall not be at a greater rate than is required of such other persons and such employees, and if the rates are determined separately for different persons or classes of persons having individuals in their employ or for different classes of employees, the determination shall be based solely upon unemployment experience and other factors bearing a direct relation to unemployment risk, and (2) only if such State law makes provision for the refund of any contributions required under such law from an instrumentality of the United States or its employees for any year in the event said State is not certified by the Board under section 1603 with respect to such year.

(c) Nothing contained in section 5240 of the Revised Statutes, as amended, shall prevent any State from requiring any national banking association to render returns and reports relative to the association's employees, their remuneration and services, to the same extent that other persons are required to render like returns and reports under a State law requiring contributions to an unemployment fund. The Comptroller of the Currency shall, upon receipt of a copy of any such return or report of a national banking association from, and upon request of, any duly authorized official, body, or commission of a State, cause an examination of the correctness of such return or report to be made at the time of the next succeeding

examination of such association, and shall thereupon transmit to such official, body, or commission a complete statement of his findings respecting the accuracy of such returns or reports.

(d) No person shall be relieved from compliance with a State unemployment compensation law on the ground that services were performed on land or premises owned, held, or possessed by the United States, and any State shall have full jurisdiction and power to enforce the provisions of such law to the same extent and with the same effect as though such place were not owned, held, or possessed by the United States.

(e) The legislature of any State may, with respect to service to be performed after December 31, 1945, by a laborer, mechanic, or workman, in connection with construction work or the operation and maintenance of electrical facilities, as an employee performing service for the Bonneville Power Administrator (hereinafter called the Administrator), require the Administrator, who for the purposes of this subsection is designated an instrumentality of the United States, and any such employee, to make contributions to an unemployment fund under a State unemployment compensation law approved by the Board under section 1603 and to comply otherwise with such law. Such permission is subject to the conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States. The Administrator is authorized and directed to comply with the provisions of any applicable State unemployment compensation law on behalf of the United States as the employer of individuals whose service constitutes employment under such law by reason of this subsection.

(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Federal Security Administrator (or approved by the Social Security Board prior to July 16, 1946) under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the same limitation with respect to contributions required from such person and from the officers and members of the crew of such vessel, as is imposed by the second sentence (other than clause (2) thereof) of subsection (b) of this section with respect to contributions required from instrumentalities of the United States and from individuals in their employ.

(g) The permission granted by subsection (f) of this section shall apply in the same manner and under the same conditions (including the obligation to comply with all requirements of State unemployment compensation laws) to general agents of the Secretary of Commerce with respect to service performed from and after March 13, 1951, by officers and members of the crew on or in connection with vessels owned by or bareboat-chartered to the Maritime Administration, Department of Commerce. As to any such vessel, the State permitted to require contributions on account of such service shall be the State to which the general agent would make contributions if the vessel were operated for his own account. Such general agents are designated, for this purpose, instrumentalities of the United States not wholly owned by it and shall not be exempt from the tax imposed by section 1600. The permission granted by this subsection is subject to the same conditions and limitations as are imposed in subsection (f) of this section and in clause (2) of the second sentence of subsection (b) of this section, and to the further condition that the State requiring contributions shall regard contributions based on wages paid by such general agent on behalf of the United States in the period prior to July 1, 1952, as having been paid on time, if such contributions have been paid by such general agent to such State on or before September 30, 1952.

(h) In the event the State permitted to require contributions by subsection (g) of this section does not do so, the Secretary of Commerce is authorized to make, or to require such general agents to make, application for voluntary election of coverage under the unemployment compensation law of any State.

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(i) Any State may, as to service performed after the enactment of this subsection and on account of which contributions are made pursuant to subsection (g) or (h) of this section, require contributions from persons performing such service under any State unemployment compensation law or temporary disability insurance law administered in connection therewith and may require agents of the Secretary of Commerce to make contributions thereunder and to make such deductions from wages as are required by such laws.

(j) Each agent of the Secretary of Commerce making contributions pursuant to subsections (g) and (h) of this section is a separate entity in his capacity, as an instrumentality of the United States, distinct from his identity as an employer on his own account.

#### SEC. 1607. DEFINITIONS.

When used in this subchapter—

(a) EMPLOYER.— \* \* \* \*

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(c) EMPLOYMENT.—The term "employment" means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of whatever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

(1) Agricultural labor (as defined in subsection (1));

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(6) Service performed in the employ of the United States Government or of an instrumentality of the United States which is (A) wholly owned by the United States, or (B) exempt from the tax imposed by section 1600 by virtue of any other provision of law: *Provided, however, That service performed from and after March 13, 1951, which would otherwise be included as employment under this section shall not be excluded by reason of the fact that it is performed on or in connection with a vessel owned by or bare-boat-chartered to the United States and whose business is managed by a general agent of the Secretary of Commerce. Each such general agent shall, as a separate entity distinct from his identity as an employer on his own account, be subject to the tax imposed by section 1600, and to all other requirements imposed upon an employer under this subchapter with respect to service which constitutes employment by reason of this proviso. Nothing in this section or in section 1606 shall be construed as constituting such officers and members of crews employees of general agents of the Secretary of Commerce except for purposes of unemployment compensation, temporary disability insurance and this subchapter.*

